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9	BEFORE THE RESPIRATORY CARE BOARD DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
10		
11	STATE OF CAL	IFORNIA
12	In the Matter of the Accusation Against:	Case No. 1H-2005-605
13	ALFREDO AMMAY FAJAYAN, R.C.P. 2900 Brunswick Circle	ACCUSATION
14	Corona, CA 91719	ACCUSATION
15	Respiratory Care Practitioner License No. 11984	
16	Respondent.	
17		
18	Complainant alleges:	
19	<u>PARTIES</u>	
20	1. Stephanie Nunez (Complainant) brings this Accusation solely in her	
21	official capacity as the Executive Officer of the Respiratory Care Board of California,	
22	Department of Consumer Affairs.	
23	2. On or about September 8, 1988, the Respiratory Care Board issued	
24	Respiratory Care Practitioner License No. 11984 to ALFREDO AMMAY FAJAYAN, R.C.P.	
25	(Respondent). The Respiratory Care Practitioner License was in full force and effect at all times	
26	relevant to the charges brought herein and will expire on March 31, 2010, unless renewed.	
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28	///	

1	<u>JURISDICTION</u>	
2	3. This Accusation is brought before the Respiratory Care Board (Board),	
3	Department of Consumer Affairs, under the authority of the following laws. All section	
4	references are to the Business and Professions Code (Code) unless otherwise indicated.	
5	4.Section 3710 of the Code states: "The Respiratory Care Board of	
6	California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter	
7	8.3, the Respiratory Care Practice Act]."	
8	5. Section 3750 of the Code states:	
9	"The board may order the denial, suspension or revocation of, or the imposition of	
10	probationary conditions upon, a license issued under this chapter, for any of the	
11	following causes:	
12	" " ····	
13	"(c) Knowingly employing unlicensed persons who present themselves as	
14	licensed respiratory care practitioners.	
15	" " ····	
16	"(h) The aiding or abetting of any person to violate this chapter or any	
17	regulations duly adopted under this chapter.	
18	"(i) The aiding or abetting of any person to engage in the unlawful practice of	
19	respiratory care.	
20	"(j) The commission of any fraudulent, dishonest, or corrupt act which is	
21	substantially related to the qualifications, functions, or duties of a respiratory care	
22	practitioner.	
23	" " ····	
24	6. Section 3761 of the Code states:	
25	"(a) No person may represent himself or herself to be a respiratory care	
26	practitioner without a license granted under this chapter, except as otherwise provided in	
27	this chapter.	

"(b) No person or corporation shall knowingly employ a person who holds

himself or herself out to be a respiratory care practitioner without a license granted under this chapter, except as otherwise provided in this chapter."

7. California Code of Regulations, title 16, section 1399.370, states:

"For the purposes of denial, suspension, or revocation of a license, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to perform the functions authorized by his or her license or in a manner inconsistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

"(a) Violating or attempting to violate, directly or indirectly, or assisting or abetting the violation of or conspiring to violate any provision or term of the Act.

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## COST RECOVERY

8. Section 3753.5, subdivision (a) of the Code states:

"In any order issued in resolution of a disciplinary proceeding before the board, the board or the administrative law judge may direct any practitioner or applicant found to have committed a violation or violations of law to pay to the board a sum not to exceed the costs of the investigation and prosecution of the case."

9. Section 3753.7 of the Code states:

"For purposes of the Respiratory Care Practice Act, costs of prosecution shall include attorney general or other prosecuting attorney fees, expert witness fees, and other administrative, filing, and service fees."

10. Section 3753.1, subdivision (a), of the Code states:

"An administrative disciplinary decision imposing terms of probation may include, among other things, a requirement that the licensee-probationer pay the monetary costs associated with monitoring the probation."

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## **FIRST CAUSE FOR DISCIPLINE**

(Knowingly Employing An Unlicensed Person)

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- 2 3 11. Respondent is subject to disciplinary action under section 3750, subdivision (c), of the Code, in that he knowingly employed unlicensed persons who presented 4 5 themselves as licensed respiratory care practitioners. The circumstances are as follows: 6 (a) At all times relevant, respondent was the sole owner of a company called 7 Bio-Care Pulmonary Services, Inc.; 8 (b) At all times relevant, respondent was solely responsible for hiring, 9 scheduling and paying employees of Bio-Care Pulmonary Services, Inc.;
  - (c) Respondent's company, Bio-Care Pulmonary Services, Inc., contracts with health care facilities to provide respiratory care services;
  - (d) One of the health care facilities that respondent's company, Bio-Care Pulmonary Services, Inc., provided respiratory care services to was Buena Park Nursing Center;
  - (e) Respondent's company, Bio-Care Pulmonary Services, Inc., provided respiratory care services to Buena Park Nursing Center from on or about late 2004, to on or about late 2005;
  - (f) On or about June of 2005, respondent personally hired Eliser Nalica [d.o.b. 8/17/1971]., to provide respiratory care therapy services on behalf of his company, Bio-Care Services. Inc.:
  - At no time was Nalica licensed to practice respiratory care in the State of (g) California;
  - (d) On or about July of 2005, respondent personally hired Joselito Alonso [d.o.b. 9/2/71], to provide respiratory care therapy services on behalf of his company, Bio-Care Services, Inc.;
  - (e) At no time was Alonso licensed to practice respiratory care in the State of California:
    - Both Nalica and Alonso provided respiratory care services for (f) respondent's company, Bio-Care Services, Inc., until on or about August 25, 2005.

1	SECOND CAUSE FOR DISCIPLINE	
2	(Aiding and Abetting Unlicensed Practice of Respiratory Therapy)	
3	12. Respondent is subject to disciplinary action under section 3750,	
4	subdivisions (h) and (i), in that he aided and abetted two individuals in the unlicensed and	
5	unlawful practice of respiratory care, as more particularly alleged in paragraph 11, which is	
6	hereby incorporated by reference and realleged as if set forth herein.	
7	THIRD CAUSE FOR DISCIPLINE	
8	(Commission of Dishonest, Fraudulent and/or Corrupt Act(s))	
9	13. Respondent is subject to disciplinary action under section 3750,	
10	subdivision (j), in that he committed dishonest, fraudulent and/or corrupt acts as more	
11	particularly alleged in paragraph 11, which is hereby incorporated by reference and realleged as	
12	if set forth herein.	
13	<u>PRAYER</u>	
14	WHEREFORE, Complainant requests that a hearing be held on the matters herein	
15	alleged, and that following the hearing, the Respiratory Care Board issue a decision:	
16	1. Revoking or suspending Respiratory Care Practitioner License No. 11984,	
17	issued to respondent, Alfredo Ammay Fajayan, R.C.P.	
18	2. Ordering respondent to pay the Respiratory Care Board the costs of the	
19	investigation and enforcement of this case, and if placed on probation, the costs of probation	
20	monitoring; and,	
21	3. Taking such other and further action as deemed necessary and proper.	
22		
23	DATED: September 17, 2008	
24	Original signed by Liano 7immerman for:	
25	Original signed by Liane Zimmerman for: STEPHANIE NUNEZ	
26	Executive Officer Respiratory Care Board of California	
27	Department of Consumer Affairs State of California	
28	Complainant	